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09/534,443

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Jeffrey L. Johanning

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05/19/2005

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WASHINGTON, DC 20006

EXAMINER

PATEL, ASHOK

ART UNIT

PAPER NUMBER

2879

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/534,443

Applicant(s)

JOHANNING, JEFFREY L.

Examiner

Ashok Patel

Art Unit

2879

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 February 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31-40, 71, 72, 84 and 87-91 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 31-38, 71, 84 and 87-90 is/are rejected.  
7) ☒ Claim(s) 39, 40 and 72 is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 24 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_

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1. Claims 71-72 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 71 depends upon claim 31. Claim 71 recites the terms "a frame" and "a stem assembly" at lines 3 and respectively. These terms render the claim vague since it remains unclear as to whether the frame and the stem assembly recited at lines 3 and 5 are different or same as "the elongated frame" and "the stem assembly" recited in the base claim 31. From the context of the specification, it appears that the frame and the stem assembly recited claim 71 is same as the elongated frame and the stem assembly recited in claim 31. Claim 71 was independent before current amendment. It appears that amending claim 71 from its (previous) independent status to (current) dependent status (upon claim 31) caused the issue of vagueness.

2. Claim 84 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 71. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the

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other as being a substantial duplicate of the allowed claim.

See MPEP § 706.03(k).

Claims 84 is word for word same as claim 71 except that claim 71 recites the terms "a frame" and "a stem assembly" at lines 3 and 5 as opposed to terms "said frame" and "said at lines 1-2 and 3 respectively in claim 84 which are same in meaning in view of 35 U.S.C. 35 U.S.C. 112, second paragraph rejection as mentioned earlier in the last paragraph.

3. The Examiner examines all claims (31-40, 71, 72, 84 and 87-91) presented in the amendment filed on 02/22/2005.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 31-38 and 87-91 are rejected under 35 U.S.C. 102(e) as being anticipated by Brown et al (USPN 6,188,164, of record).

As to claims 31 and 32, Brown et al disclose applicant's claimed mounting structure (Figures 1-3) including: an elongated frame (14) supported at one end by a stem assembly (bottom part of the frame), the elongated frame (14) including a stem clamp (11) supported by a stem (10) and including one or more frame retaining tabs (element 11a, 11b, 11c or 11d) crimped around a (lower) portion the frame (14).

As to claim 33, Brown et al disclose the frame including a wire (14) forming an end portion (bottom portion) and two substantially parallel legs extending in substantially the same direction from the end portion.

As to claim 34, Brown et al disclose the frame including a generally tubular member (11, 12) having two pairs of frame retaining tabs (11c-12d; 11d-12c), each pair of tabs being positioned opposite the other about a curved surface of the stem clamp, the tabs forming opening to receive the portion of the wire 14.

As to claim 35, Brown et al disclose frame includes wire (14) forming an end portion and two substantially parallel legs extending in substantially the same direction from the end portion (as mentioned earlier for claim 33), a portion (bottom portion as shown in Figures 1-3) of one of the legs being received through the openings formed by one pair (11c-12d) of the frame retaining tabs, a portion (bottom portion as shown in Figures 1-3) of the other of the

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legs being received through the openings formed by the other pair (11d-12c) of the frame retaining tabs.

As to claim 36, Brown et al disclose the tabs (c; d) each forming an aperture.

As to claim 37, Brown et al disclose the frame including a wire (14) forming an end portion (the bottom portion) and a leg (longer portion of element 14) extending from the end portion, the leg having a swaged portion adjacent its terminal end.

As to claim 38, Brown et al disclose the stem clamp including a generally tubular member (as mentioned earlier for claim 34).

As to claim 87, as discussed earlier in the rejection of claim 31, Brown et al disclose the structure shown in Figures 1-3 including the elongated frame with no weld between the frame and any other component in the structure.

As to claim 88, since language of claim 88 is very much similar to that of claim 87, claim 88 is rejected for reasons set forth in the rejection of claim 87.

As to claims 89 and 90, the frame retaining tabs (element 11a, 11b, 11c or 11d) include (a vertical) slot for (axially) receiving (an end/bottom) portion of the frame (14).

As to claim 91, the stem clamp includes a curved portion (arc portions shown in Figure 2), and two (crossing) pair of frame retaining tabs (i.e. 11a & 11b and 11c & 11d) extending radially

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outward from the curved surface, each tab forming a (vertical) slot for receiving a portion of the frame therein.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 71 and 84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (USPN (6,188,164) in view of Gustin (USPN 3,094,640).

Brown et al disclose the mounting structure wherein the frame includes a pair of substantially parallel elongated legs (14a, 14b), each of the legs having a tab retaining portion (14c) adjacent the terminal end thereof. However, Brown et al do not disclose the structure including a heat shield as claimed by applicant.

Although providing the heat shield is known in the art of arc tube mounting structure, Gustin is cited for teaching a lamp including a heat shield (30) for shielding a heat emitted from a lighting source.

Consequently, it would have been obvious to one of ordinary skill in the art to provide Brown et al's lamp including the heat shield as taught by Gustin suitably for shielding the heat emitted from the lighting source.

8. If applicant believes that claim 84 is not same as claim 71, then claim 84 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown et al (USPN (6,188,164) in view of Gustin (USPN 3,094,640).

Claim 84 is rejected for reasons set forth in the rejection of claim 71 since all limitations of claim 84 is present in claim 71.

9. Claims 39, 40 and 72 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 39 and 40 are allowable over prior art of the record for reasons set forth in the previous office action (paper no. 1004).

As to claim 72, prior art of the record does not disclose applicant's lamp of claim 72, (which includes all limitations recited in intervening claims 71 and 31) including specific structure of a heat shield recited in claim 72.



Claim 72 depends upon claim 71. As mentioned earlier, claim 71 and claim 84 substantial duplicate of each other. Therefore the Examiner proposes to cancel claim 84 so that claim 72 could be allowed if presented in rewritten independent form including all of the limitations of the base claim and any intervening claims.

Applicant argues at page 8 of his response filed on 02/22/2005, that claim 31, as amended, is not anticipated by Brown et al prior art reference, relied upon for rejection. This is not found persuasive. It is the position of the Examiner that Brown et al anticipate applicant's claim 31 and many other claims as set forth in this office action. The Examiner interprets applicant's claimed language in its broadest possible reasonable way.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 571-272-2456. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 571-272-2457. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private

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PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ashok Patel  
Primary Examiner  
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